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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/783,746

02/15/2001

Robert G. Stevens

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EXAMINER

KESACK, DANIEL

ART UNIT

PAPER NUMBER

3691

MAIL DATE

DELIVERY MODE

01/09/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/783,746

Applicant(s)

STEVENS, ROBERT G.

Examiner

Dan Kesack

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 18, 19, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18, 19, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 1, 2007 has been entered.
2. Claims 1-16, 18, 19, 21, and 22 are currently pending. The rejections are as stated below.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1, 2, 7-12, 16, 18, 19, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giovannoli, U.S. Patent No. 5,758,328, in view of Walker, U.S. Patent No. 5,794,207, in view of Fedor, U.S. Patent No. 6,785,660, and further in view of the eBay item auction listing #262794438, hereinafter *eBay*.

Regarding claims 1, 2, 8, 9, 11, 12, 16, 18, 19, 21, and 22, Giovannoli discloses a computerized quotation system and method for forming a computer based network of members inclusive of buyers and sellers, for processing quotation for goods and services, through which a buyer issues a request for quotation for goods or services to the computerized system identifying the good or service requested, a computerized system which filters appropriate vendors to receive the request for quotation of goods or services based on filter conditions set forth by the vendor and/or buyer, electronically transmitting the request for quotation to the selected vendors, vendors electronically responding to the request by communicating their quotations to the computerized system, and the computerized system transmitting the received quotations to the buyer (column 2, line 35 thru column 3, line 21). Giovannoli teaches the buyer submits a final

purchase order to the winning bidder via electronic communications. Giovannoli teaches only vendors capable of fulfilling the request requirements are selected by the system, including geographic requirements. Giovannoli teaches only selected vendors receive said request for quotation via email, and only said selected vendors respond with a bid. Giovannoli further teaches the steps of completing said request for quotation, and steps for selecting a vendor may be performed by the buyer (Figure 2A and 2B).

Claims 1, 11, 12, 18, 22, Giovannoli fails to teach providing a bidding deadline, and electronically accepting bids from bidders before the deadline expires.

Walker discloses a method and apparatus for facilitating and controlling a buyer driven market, where prospective buyers of goods and services submit a request for said goods and services, which is then processed and electronically mailed to potential seller groups. Walker teaches the request for proposal (RFP) information being sent to potential sellers, wherein the RFP information includes an expiration date, after which the RFP becomes expired, and the contract may no longer be binder (equivalent to "not accepting bids"). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Giovannoli to include the expiration date feature of Walker because it would be desirable to a buyer to be able to set a deadline for forming a contract. It is reasonable that a buyer who creates a request for proposal would want the proposal fulfilled within a certain time frame, or else

not at all. A deadline would assure that a buyer is not bound to pay for a good or service at a time when it is no longer needed.

Claims 1, 18, 22, Giovannoli and Walker fail to teach automatically selecting a winning bidder.

Fedor discloses an electronic bidding process for the procurement of items, wherein received bids are evaluated according to a predetermined algorithm to automatically select a winning bidder (column 3 lines 44-65). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Giovannoli and Walker to include automatically selecting a winning bidder because automating the process would eliminate the time necessary to manually evaluate every received bid, and would also eliminate the chance of errors. These are desirable features of any electronic system. While Giovannoli and Walker teach the user selecting the winning bidder, it is noted that the user may defining the algorithm for automatically selecting the winner, and therefore the automation does not teach away from the manual process disclosed by Giovannoli and Walker.

Claims 1, 18, 22, Giovannoli, Walker, and Fedor fail to teach requesting the winning bidders to confirm an award by a confirmation deadline.

eBay teaches an electronic auction environment in which a winning bidder is automatically chosen, and wherein the system requests that the winning bidder contact the seller within 3 business days of the end of the auction. It would have been obvious

to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Giovannoli, Walker, and Fedor, to include requesting that the winning bidder confirm the award by a deadline because a seller would desire to complete the transaction of the auction, and it is necessarily to have a mechanism to determine if a winning bidder does not intend to complete the transaction.

Claims 7, 10, Giovannoli fails to teach the buyer request may be posted on bulletin boards or web pages. Walker teaches potential sellers are selected by meeting certain conditions set forth by the buyer. Walker teaches the seller submits a counteroffer to the buyer thereby facilitating the buyer to choose the best counteroffer as the winner of the contract (Figures 5-11 and Column 18 Lines 24-31). Walker further teaches the buyer's request may be posted on bulletin boards or web pages. It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Giovannoli to include posting the request on bulletin boards or web pages because posting a single description in a central, universally accessible location such as the internet or a bulletin board would improve the efficiency of the system.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Giovannoli, Walker ('207), Fedor, and eBay in view of Walker, U.S. Patent No. 6,415,264.

Giovannoli, Walker ('207), Fedor, and eBay fail to teach the storage of records including information representing historical performance of a bidder.

Walker ('264) discloses a system and method which can be applied to online auctions in which "the seller database may also include a number of satisfied buyers, a number of unsatisfied buyers, and a reputation percentage" (Column 6 Lines 44 thru 47). It would have been obvious to one of ordinary skill in the art at the time the Applicant's invention was made to modify the teachings of Giovannoli, Walker ('207), Fedor, and eBay to include records for tracking the historical performance of a bidder in order to distinguish between vendors with good service and vendors with unsatisfactory service for the benefit of the buyer.

7. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giovannoli, Walker ('207), Fedor, and eBay.

Claims 4-6, Giovannoli, Walker ('207), Fedor, and eBay fail to teach a predefined amount of time for completion of the steps of automatically selecting, electronically notifying and electronically selecting a winning bidder. Giovannoli, Walker ('207), and Fedor further fail to teach including a bidding time period and a bidding deadline in the electronic communication, and instructing selected vendors to post bids before said deadline.

Official Notice is taken that defining the length of time of the auction process, having a bidding time period and a bidding deadline, and the notification of said deadlines is old and well known in the art. Since Applicant failed to adequately

challenge Examiner's statement of what is old and well known in the art, as cited in the Office Action dated 9/28/05, the statement of Official Notice is considered admitted prior art. It would have been obvious to one of ordinary skill in the art at the time the Applicant's invention was made to modify the teachings of Giovannoli, Walker ('207), Fedor, and eBay to include in the method the steps of defining the timeframe under which the steps of automatically selecting, electronically notifying, and electronically accepting a winning bidder must be completed, and of including in said electronic notifications a bidding time period and a bidding deadline, and instructions to post bids before said deadline, as steps may be completed within any predetermined time to accommodate the needs of the buyer, improving the usefulness and convenience of the method. Electronic notification of said deadlines, and instructions for bidders to place bids before said deadlines informs the bidder, making the method easier to implement.

8. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giovannoli, Walker ('207), Fedor, and eBay, in view of Ausubel U.S. Patent No. 5,905,975.

Giovannoli, Walker ('207), Fedor, and eBay fail to teach instructing the selected bidders to post sealed bids, and instructing selected bidders to post partially open bids in which bidders may revise bids until the deadline passes. Ausubel discloses a computer implemented system and method of executing an auction, in which bids are submitted and processed, and a winner selected. Ausubel teaches sealed bid auctions as a method of conducting the auction, and a method of bidding where bidders are

allowed to continuously revise their bids until the close of the auction. It would have been obvious to one of ordinary skill in the art at the time the Applicant's invention was made to modify the teachings of Giovannoli, Walker ('207), Fedor, and eBay to include such methods for the bidding process because they are fair, organized, commonly used methods of the auction art.

9. Claims 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giovannoli, Walker ('207), Fedor, and eBay, in view of Godin, U.S. Patent No. 5,890,138.

Giovannoli, Walker ('207), Fedor, and eBay fail to teach the step of confirming the award by the winning bidder by visiting a web page. Godin discloses a reverse auction system conducted over electronic means, preferably the Internet. Godin teaches a winning bidder is taken to a confirmation screen where said bidder must input financial information to confirm the award and complete the transaction. . It would have been obvious to one of ordinary skill in the art at the time the Applicant's invention was made to modify the teachings of Giovannoli and Walker ('207) to include confirming the award on a web page to make the system more convenient, and for easing the close of the transaction.

Giovannoli, Walker ('207), Fedor, and eBay fail to teach notifying all bidders who posted bids about their status. Godin teaches a status screen that is available to all registered users where a bidder can view the item, time remaining in the auction, current price of auction, and current winning bidder. It would have been obvious to one

of ordinary skill in the art at the time the Applicant's invention was made to modify the teachings of Giovannoli, Walker ('207), Fedor, and eBay to include a method for notifying bidders of their status because bidders would need this information to determine whether or not to revise a bid during the course of the auction.

Response to Arguments

10. Applicant's arguments with respect to claims 1-16, 18, and 19 have been considered but are moot in view of the new grounds of rejection.

Conclusion

11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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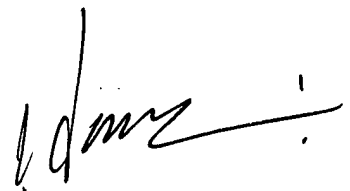
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Kesack whose telephone number is 571-272-5882. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully Submitted,

Daniel Kesack
Art Unit 3691
January 6, 2008



HANI M. KAZIMI
PRIMARY EXAMINER